CIVIL WRIT JURISDICTION CASE No.8229 OF 1991

1. MOHAMMAD MAINUDDIN, son of Gulaman Mia, resident of village Mirja Nagar Dogara, P.S. Mahua, District – Vaishali.

---------- Petitioner 1st Party.

2. Bibi Jamila Khatoon W/o – Mohamad Hazi, resident of village Dubana, P.S. – Desari, District – Vaishali.

---------- Petitioner 2nd Party.

Versus

1. The State of Bihar.
2. Collector Vaishali, Hajipur.
3. Director Consolidation, Patna.
4. Hafiz Mohammad Mustakim, son of Mohammad Habibulah, resident of village Mirja Nagar, P.S. Mahua, District – Vaishali.

---------- Respondents.

For The Petitioner : K.D.PRATAP
For The Respondent : (SC8)

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P R E S E N T

THE HON'BLE MR. JUSTICE AJAY KUMAR TRIPATHI

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A. K. Tripathi, J. Heard learned counsel for the petitioners and learned counsel for the State.

Challenge to Annexure – 2 dated 02.05.1991, is with regard to an order passed by the Collector, Vaishali, in exercise of power under Section 32 of the Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956. By virtue of the impugned order the sale deed executed on 05.06.1981 was declared to be void and a fine of Rs. 200/- has been imposed.

Submission of learned counsel appearing for the

petitioner is that in absence of any categorical finding with regard to publication of register of lands and publication of statement of principles not having been made, therefore, there is no breach of Section 5 of the Consolidation Act.

In that view of the matter, the document in question could not be declared void nor the fine in question could be imposed in this regard. Reliance has been placed on a decision in the case of ***Ramjanam Singh Versus The State of Bihar & others reported in 2001 (4) PLJR 531,*** which is the decision of the Division Bench on the issue.

Keeping in view the ratio laid down in the case above, the impugned Annexure – 2 dated 02.05.1991 is quashed.

The writ application is allowed

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Patna High Court
The 23rd Day of
December, 2008,
NAFR/AFR,
Rajeev/

(Ajay Kumar Tripathi, J.)